The saving of the wilderness in Alaska

ALTHOUGH THE Ninety-Fifth Congress resolved many long-standing parkland and wilderness issues—including Redwoods National Park and Mineral King in California, Boundary Waters Canoe Area in Minnesota, French Pete Wilderness in Oregon, and the Pine Barrens in New Jersey—it failed to enact legislation on the wildlands issue which eclipses all others, Alaska.

Introduced on the first day of Congress in 1977, the Alaska lands bill was under active consideration until the final hours of the session when efforts to negotiate compromise broke down. It was a classic land use confrontation.

When the Congress failed to act, it put in jeopardy the lands that had been temporarily reserved in 1971 by congressional action and by Secretary Morton's administrative decisions. Thus, the scene was set in December for intervention by President Carter and Secretary of the Interior Andrus. Their actions earmarked about 95 million acres —nearly a fourth of the state's area— for conservation, at least temporarily. But many issues were left to be resolved by legislation, thus the problem of establishing national parks, wildlife refuges, wild and scenic rivers, and wilderness areas in Alaska promises to be the dominant public lands issue in Congress this year.

Land status. Alaska is by far our largest state, more than twice the size of Texas. When it entered the Union in 1959, fewer than 1 million acres out of 375 million were in private ownership; the rest was federally owned. With statehood, Alaska was granted the right to select 105 million acres of unreserved public lands for state use over a twenty-five-year period. Thus, an area larger than California will pass from federal to state ownership, providing a land base for future economic development in the remote northern state by 1984.

In the last twenty years, land status in Alaska has been drastically affected by the discovery of oil and natural gas at Prudhoe Bay and the construction of the trans-Alaska pipeline. These events have set off a chain reaction. With oil revenues pouring into the state, plans for multimillion- (sometimes multibillion-) dollar, state-financed development projects—dams, steel and aluminum mills, highways, petrochemical plants, railroads and pipelines—are receiving serious attention.

It is within this framework of economic growth and the rapid disposal of federal land that the movement to preserve large units of Alaska's wildlands has gained momentum. Alaska contains three of the nation's largest national park system units and approximately two-thirds of all acreage in the National Wildlife Refuge System, including the "crown jewel" of the refuge system: the Arctic National Wildlife Range. However, these conservation units did not begin to protect the nation's treasury of natural wonders in Alaska.

Recognizing that there was much more to be done, Congress wrote section 17(d) (2) of the Alaska Native Claims Settlement Act of 1971 (ANCSA) directing the secretary of the interior "to withdraw from all forms of appropriation under the public land laws" up to 80 million acres in Alaska to be studied for addition to the National Park, Forest, Wildlife Refuge, and Wild and Scenic Rivers Systems. Lands withdrawn under this provision received protection only until December 18, 1978. In addition to withdrawing nearly 80 million acres of "national interest d-2 lands," Interior Secretary Morton withdrew almost all of the remaining unreserved public lands in Alaska under section 17(d)(1) of the ANCSA. These "public interest d-1 lands" are also withdrawn from appropriation under the public lands laws but not from mineral entry. (The primary purpose of the ANCSA was to settle aboriginal land claims in return for $1 billion and 44 million acres of federal land.)

Secretary Morton—on behalf of the Nixon administration—later recommended that Congress establish 83.5 million acres of conservation system units in Alaska in order to make permanent the actions he had taken. Conservationists urged that more acreage be included in conservation units and recommended stricter management of these units. Giving itself five years to act on the conservation system proposals, Congress took no action for three years after Morton's recommendations. Not until January of 1977, when Rep. Morris K. Udall (D-Arizona) introduced H.R. 39, did Congress begin to consider seriously the national interest lands proposals. The deadline was less than two years away.

The legislative record. About a dozen different Alaska lands bills were introduced in the Ninety-Fifth Congress, and the legislation moved through Congress, becoming longer and more complex at each stage. While contrasting the acreages proposed for conservation

in the various bills does not reveal differences among their management provisions, it can provide a meaningful yardstick for comparison. The principal bills were as follows:

1. HOUSE BILL H.R. 39. As introduced by Representative Udall and eighty cosponsors, this bill proposed 115 million acres of new national parks, wildlife refuges, and wild and scenic rivers. Six areas totaling 6.6 million acres in Alaska's two national forests were to become part of the National Wilderness Preservation System, as well as suitable lands in new and existing parks and refuges (approximately 140 million acres).

2. ADMINISTRATION PROPOSAL. On September 15, 1977, Interior Secretary Cecil Andrus presented his 92-million-acre national interest lands bill to Congress. It called for 43 million acres of Wilderness System additions in parks and refuges, including wilderness in the existing Arctic National Wildlife Range, which is considered a potentially rich area for oil and gas deposits. In February 1978 the administration recommended 5.9 million acres in seven forest wilderness areas and 2.6 million acres for wilderness study status.

3. H.R. 39 AS PASSED BY THE HOUSE. On May 19, 1978, the House voted 277 to 31 to pass a bill which would have placed 126 million acres in new conservation system units. The House bill provided for 65.5 million acres of designated wilderness, making severe cuts in the administration's national forest wilderness proposal.

4. H.R. 39 AS RECOMMENDED BY THE SENATE ENERGY COMMITTEE. With less than a week remaining in the congressional session, the Senate Energy and Natural Resources Committee reported its Alaska lands bill on October 9, 1978. The committee recommended 81 million acres of new national parks, wildlife refuges, and wild and scenic river systems; and it provided for 37 million acres of additions to the Wilderness System. Here acreage figures do not begin to tell the story of the changes

RESOURCES Resources for the Future, No.61, Jan-Mar 1979

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wrought in committee. Owing to serious alterations in management provisions for the conservation units, this was the only one of four major bills which Sen. Ted Stevens (R.-Alaska) found "liveable" and the conservationist Alaska Coalition labeled "unacceptable."

Principal issues. As in other matters of land preservation, the principal issues were protection of natural values on the one hand, and on the other, the pressure for development. Proponents of the Alaska lands bill argue that in Alaska the United States has its last opportunity to protect wildlands on a grand scale. Conservation in Alaska has been called "our last great first chance." Since life is spread wide and thin in Alaska, protection of the natural environment and the wildlife it sustains demands that very large conservation units under one strict management regime be set aside.

Opponents of the legislation insist that the preservation of 100 million acres in Alaska will cost the nation dearly in untapped natural resources—oil, gas, metallic minerals, timber, agricultural lands. Most development, they say, is compatible with protection of the land, since development would occur within small discrete portions of these larger conservation units. The argument runs that we can have our cake and eat it too if we specify management classifications that allow regulated development.

Because extraordinarily high costs in Alaska forbid development of most natural resources, there is almost no likelihood in the foreseeable future that these resources which lie within the proposed conservation units can be developed. Therefore, the opponents of the Alaska lands bill have focused their objections on a few issues where the conflicts are immediate. Among the issues are:

1. SUBSISTENCE. Many rural Alaskans, most of whom are Natives, live off the land—hunting, fishing, and gathering most of their livelihood on public lands. While the need to allow continued harvest by subsistence users in conservation units has not been an issue, the question of federal versus state versus local control of subsistence activity, particularly hunting, has resulted in extensive debate and controversy. A complex compromise is evolving.

2. STATE LAND SELECTION. Because the state still has approximately 30 million acres of its land grant to select, the primary thrust of its opposition to the Alaska lands bill has derived from the claim that the state should be able to select its entire entitlement before Congress sets aside more federal lands. In response, the administration and conservationists point out that the state of Alaska received a uniquely generous land grant, and since it has already selected more than 70 million acres, it is in no position to ask for land inside the proposed conservation system units. Ample unreserved federal land is available elsewhere.

3. MINERALS, OIL, AND GAS. Resource extraction interests have been successful in persuading decision makers to redraw the boundaries of several conservation units in order to exclude mineral deposits. However, these alterations have involved small areas on the edge of units. It is generally accepted that deposits in mineralized areas within conservation units cannot be extracted economically even once they are located. Those on all sides of the Alaska lands issue agree that federally conducted mineral-assessment programs should continue within the conservation units.

4. ACCESS. Access into, through, and across conservation system units has been the subject of a multifaceted controversy, including discussion of (1) route selection for future transportation systems like the trans-Alaska pipeline; (2) freedom of access to state and Native lands within and adjacent to conservation units; and (3) public access by motorized boat, snowmobile, and airplane into roadless conservation units.

5. TIMBER IN SOUTHEAST ALASKA. At the time the Alaska Native Claims Settlement Act was passed, the panhandle of southeastern Alaska had been in the Tongass National Forest for sixty-five years; therefore, it was not subject to withdrawal. However, outstanding wilderness values in this coastal rain forest led local conservationists to develop a forty-five-unit wilderness proposal for the 16-million-acre Tongass. In the 1950s, the Forest Service committed much of the Tongass's forested lowlands to the timber industry when it sold unprecedented fifty-year timber contracts. Today there is too little forested land to meet the needs of the twenty-year-old timber industry and the needs of conservation advocates, including fishermen. The proposed Tongass wilderness areas have been the most hotly contested of all the conservation system units.

In the future. The series of proclamations issued by the Carter administration following the adjournment of the Ninety-Fifth Congress has given permanent protection to 56 million acres of Alaska's national interest lands. Only a federal court decision that President Carter has overstepped his authority under the Antiquities Act—or action by Congress to declassify the monuments—can alter the status of the seventeen

Congressional record on conservation

THE NINETY-FIFTH CONGRESS resolved a number of long-standing land use controversies.

- It passed legislation to strengthen protection for Minnesota's 1-million-acre Boundary Waters Canoe Area. Logging in the area was banned, and mining will be severely restricted. Motorboat use will be reduced from 62 to 24 percent of the water surface area in a series of twenty-year phaseouts. Snowmobiles will be allowed on three trails in the wilderness until a final ban takes effect in 1984.

- Redwood groves containing the world's tallest tree gained some protection from erosion caused by clear-cut logging, which has advanced to some sections of the boundary of Redwood National Park. To buffer the threatened grove, Congress authorized funds to acquire a 48,000-acre addition to the park.

- Under the National Parks and Recreation Act of 1978, the spectacular 16,000-acre Mineral King Valley will be transferred from the Forest Service to the National Park Service as an addition to Sequoia National Park. Thus ends a long and bitter fight between environmentalists and the Walt Disney Corporation, which had planned to build a major ski resort in the valley. The parks act also establishes a Pine Barrens National Reserve and calls for a plan to protect the ecologically unique and seriously endangered New Jersey Pine Barrens.

- Under the Endangered American Wilderness Act signed into law early in 1978, Oregon's beautiful French Pete Roadless Area became a 45,400-acre addition to the National Wilderness Preservation System.

new national monuments. Moreover, the president has directed Interior Secretary Andrus "to proceed with necessary steps to designate National Wildlife Refuges for the remaining twelve proposed refuge areas, an additional 40 million acres."

Despite these two administration initiatives, which will result in the protection of approximately 95 million acres of the proposed conservation system units, there is a limit to the power of the executive branch to set aside land and tailor management systems. For this reason, some areas that are key to the integrity of whole park units were left out of monuments. It will be up to the Ninety-Sixth Congress to resolve these and other important issues as Alaska continues to be the president's "highest environmental priority."

The next legislative battle over the Alaska lands bill will be different, however, in a very important way: Proponents of wilderness preservation in Alaska will not be fighting a strictly offensive effort, and opponents will not be able to maintain their defensive posture. Both sides will seek changes in the new status quo set by the administration in December. □ P.S.

An oil spill and its aftermath— The story of the *Amoco-Cadiz*

On March 16, 1978, shortly after the United Nations International Marine Consultative Organization (IMCO) had concluded a round of negotiations on tanker safety regulations, the *Amoco-Cadiz*—an American-owned ship, built in Spain, chartered to a multinational company, manned by an Italian crew, and registered in Liberia—ran aground off the northwest coast of France, spewing 216,000 tons of Middle Eastern crude and 4,000 tons of her own fuel onto the north Brittany coast. This was the largest oil spill heretofore known to mankind.

It has been charged that the spill could have been prevented. The disaster began as a more or less "normal" accident, with the failure of the ship's steering mechanism. It is unclear whether the ship had inadequate backup steering, or whether the crew was incapable of making effective use of the backup controls. Some reports indicate that the owners of the *Amoco-Cadiz* and the owners of the tug *Pacific* wasted time in haggling over the terms of the salvage contract. Whether or not this was true, the rescue attempt was too little and too late. The *Amoco-Cadiz* received aid from only one tug before its towline snapped in the rough seas. By this time the ship had drifted out of the traffic lanes and into French territorial waters where it ran aground.

Controlling oil spills. The *Amoco-Cadiz*—only four years old—had met all the international safety requirements existing at the time of its grounding. This can be taken to mean either that the regulations were inadequate, or that the spill—though unfortunate—was just one of those unlikely events that reasonable regulations cannot prevent.

The evidence is difficult to sort out. Since its inception, IMCO's effectiveness in reducing marine pollution has been questioned. Critics view IMCO's rules and regulations as public placebos which do not address the problem in a meaningful way. Cited as an example of the organization's ineffectiveness, is the rejection, at the February 1978 meeting in London, of two major antipollution measures—namely, mandatory double bottoms for new tankers, and segregated ballast systems for existing tankers. Rather the package agreed upon included the compromises: protectively located segregated ballast for new tankers and crude oil-washing systems for existing product carriers.

President Carter had earlier called for construction and equipment regulations, which would include double bottoms, segregated ballast, inert gas systems, backup radar schemes with collision-avoidance equipment, and improved emergency steering standards for U.S. and foreign tankers over 20,000 deadweight tons entering U.S. ports. After the February 1978 IMCO meeting, however, the U.S. Coast Guard proposed, and Congress subsequently passed in the Ports and Waterways Safety Act of 1978, standards and regulations which are very similar to those agreed to by IMCO. Segregated ballast for existing tankers was deemed too expensive, as was the double-bottom requirement for new ships.

That these are compromises and less effective in reducing both accidental and intentional pollution (that is, tank-cleaning operations) is generally agreed upon. However, accurate estimates of the additional costs and, particularly, the additional benefits of the more stringent measures are not forthcoming, and without such estimates it is difficult to decide what degree of risk is acceptable.

Clean up. A closely related question concerns the complementary measures to be taken to minimize the damages from tanker accidents, since they are not all preventable. In the case of the *Amoco-Cadiz* spill, the French Senate Commission Report pointed out that such measures were found wanting. The French government was largely uninformed of the pending catastrophe until the ship actually went aground. Although international rules give the coastal country the right to intervene if a ship is in trouble nearby, this does not apply if the ship does not request aid. At one point while the *Amoco-Cadiz* was drifting into French territorial waters, French signal stations inquired if additional help was needed but were informed that it was not. Once the grounding had occurred and oil began leaking, the government's concern was how to minimize the damage to the French coast. The first reaction in grounding cases is to pump out as much oil from the vessel as possible. This was not done in the case of the *Amoco-Cadiz* because of inclement weather and poor survey charts. Severe storms eventually broke up the supertanker on March 19 and, in order to avoid an oil

leak of several months' duration, the French navy then used submarine bombs to release the remaining oil at once.

Once the oil was released, further complications developed. Local politicians demanded immediate action, while national authorities advised patience. Clean-up efforts were uncoordinated—at least initially—and too much in the nature of *ad hoc* squeegee affairs, but it is not necessarily true that the cleanup could have been more efficiently managed. As has been pointed out by clean-up experts, the technology for cleaning up oil spills is not a well developed science. Opinion is divided on how to clean up even smaller spills, and the size of the spill and weather and wave conditions made this one even more difficult.

After the *Amoco-Cadiz* wreck, the French government did move the shipping lanes farther from the coast, and now all ships in trouble are required to notify the French navy. The French are also seeking tighter national powers to control, or even to ban, some ship movements inside the twelve-mile limit.

The problems in staging an effective clean-up effort are both technical and financial. Antipollution strike forces, organized and trained to operate effectively on short notice, are very costly. Even if governments could afford such investments, the experts do not agree on the best way to handle the oil. Some advocate breaking it up with detergent; some would try to skim it off the surface. From Le Conquet to Saint-Malo, the French marshaled a massive clean-up effort. Whether the methods used were the most advisable remains unclear. In some areas it was possible to take some preventive steps. Some oysters were removed from their soon-to-be-polluted environs and shipped to safer areas. In other places the upper layers of beach sand were removed and stored in a safe area in order to provide a clean layer of sand once the oiled layers had been removed. However, for the most part, beaches, oyster beds, and everything else that could not escape was oiled. When the oil washed ashore, tractors with front-end loaders and farm carts dug it up and hauled it and the oiled materials away. Farmers' "honey wagons" pumped up black slime, and fire company hoses steam-cleaned rocks. Thousands of military personnel pushed, scraped, dug, and carried oil away from the beaches to settling ponds. Most of the oiled oysters were destroyed because their oil concentration was too high for consumption, and they could not be cleaned. In the Isle Grande area an oiled marsh was partially dug out as the only way to remove the oil which had permeated the marsh vegetation just as water permeates a sponge.

Remaining damages. The clean-up effort has removed some of the most obvious aspects of the pollution. The beaches appear relatively clean, although in some areas the sand is still sticky or may have oil beneath the surface. There are still stains, some from this spill and some from previous spills such as the *Torrey Canyon,* but the rocks along the coast and the harbors appear relatively clean. However, neither all the oil nor its effects have disappeared. During the December tempests high-energy waves exposed buried oil, causing a foul smell. Oil is retained in areas such as marshes where it is virtually impossible to remove, and where it will take years, if not decades, to degrade. Recovery of the fish and bird populations will also take time. At least one local population may not recover—the puffin population of the Seven Islands Bird Sanctuary.

Liability and compensation. Who pays the cost of cleaning up an oil spill? Who pays the damage costs? IMCO, in its 1969 International Convention of Civil Liability for Oil Pollution Damage (CLC), imposed a primary insurable liability on tanker owners for oil pollution damage to a member nation's coastline and territorial seas. In 1971 the International Convention on the Establishment of an International Fund for Oil Pollution Damage (Fund Convention) provided a supplementary fund to be created by assessments against owners of oil cargo. These two conventions are intended to be complementary and provide up to $36 million (expandable to $72 million if it is proved necessary) for the recovery of costs or damages, or both, that are associated with oil pollution. To date, thirty-five nations have ratified the CLC. As the Fund Convention and the CLC provide coverage only to their member nations, the industry itself has initiated two schemes which are vessel-specific rather than nation-specific.

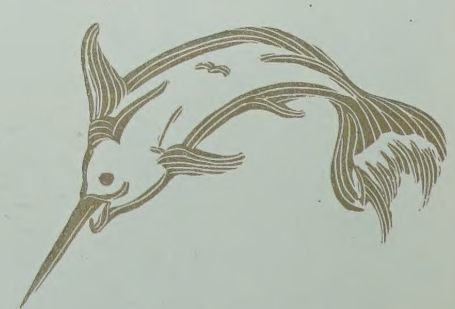
Although these plans place some responsibility on tanker companies, the limited extent of the liability is a weakness, and there is little economic incentive for companies to reduce accident rates.

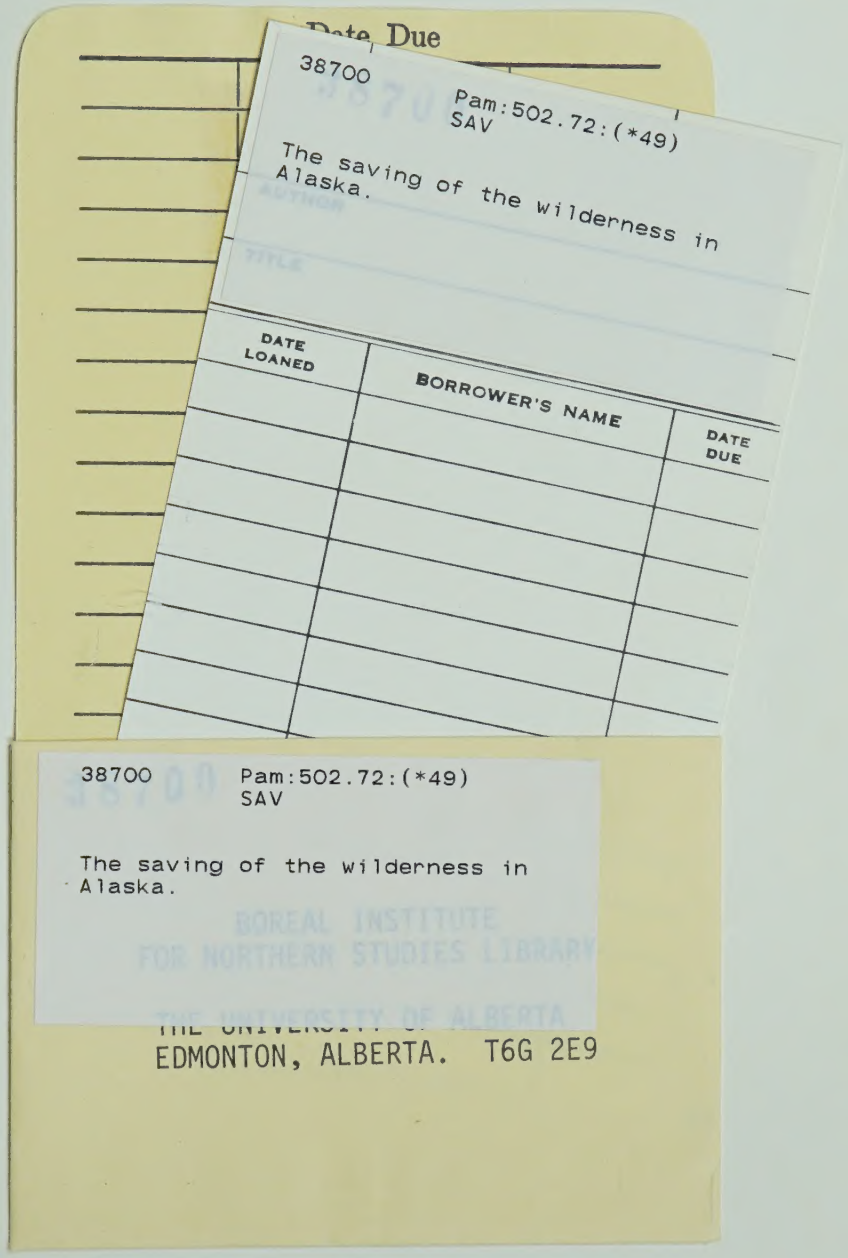
In addition, the total coverage is not really adequate for spills having the magnitude of the *Amoco-Cadiz.* The French government, taking advantage of the fact that the United States has not ratified the CLC or Fund Convention, has filed suit in New York against

the Amoco International Oil Co. for $300 million, considerably in excess of what is provided for by the industry or IMCO agreements. Even this amount is unlikely to fully recover the damages. To the extent that compensation is insufficient, or does not filter down to the actual damagees (by and large the people of Brittany), they will, by default, bear the damage costs.

The United States has attempted to enact liability and damage compensation legislation for oil spills. The House of Representatives has passed legislation limiting liability in a single incident to $30 million, but has established a fund up to $200 million, financed by a 3 percent tax per barrel on all oil moved in U.S. waters, as a backup fund for cleaning up oil spills, if the parties responsible cannot be quickly located, or if the clean-up costs exceed the shipowner's legal liability. So far, the Senate has not passed the legislation, largely as a result of division over whether states should continue their own clean-up and liability systems.

Although the $200 million fund provided would be larger than that of IMCO or the industry, it may still be too small for spills of the *Amoco-Cadiz* magnitude. Also, there remains the problem of incentives for the tanker industry. It has been argued that no limit should be placed on the liability of tanker owners for damages. The industry, on the other hand, claims that no

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